



Provisional Record

Ninety-first Session, Geneva, 2003

FOLLOW-UP ACTIVITIES BY THE OFFICE UNDER THE DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK: FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING, FORCED OR COMPULSORY LABOUR

1. This note has the purpose of informing delegates at the 91st Session of the International Labour Conference (Geneva, June 2003) of activities in pursuit of the action plans approved by the Governing Body in November 2000¹ on freedom of association and the effective recognition of the right to collective bargaining, and in November 2001² on forced or compulsory labour. The action plan approved by the Governing Body in March 2003 on the abolition of child labour³ is essentially congruent with the most recent orientations concerning the InFocus Programme on Child Labour (IPEC). This note is structured following the headings of the first two action plans and refers to countries, regions or organizations for which activities were envisaged at the time of approval of the action plans as well as to countries, etc., for which resources have become available subsequently under the inspiration of the action plans, notably to the InFocus Programme on Promoting the Declaration and the Turin Centre of the ILO.

2. The note updates *Provisional Record* No. 6 of last year's Conference. Not listed here are the many activities such as meetings, publications, advisory services, ongoing projects, etc., handled by the Bureau for Workers' Activities, the Bureau for Employers' Activities, other headquarters or field units that are concerned with or touch upon freedom of association and collective bargaining or forced and compulsory labour which complement the action plans. They tend to be reflected in the Office's programme implementation reports regularly submitted to the Programme, Financial and Administrative Committee of the Governing Body.⁴

A. FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

3. The Office has begun to elaborate the second Global Report on freedom of association and the effective recognition of the right to collective bargaining, to be submitted to the 2004 International Labour Conference. This Report will have as one of its objectives the evaluation of activities carried out since the adoption of the action plan in 2000.

4. *Interregional*: Donor and surplus funds are used to raise the awareness of CEOs of a number of com-

panies of the value of commitment to the principles of the United Nations Global Compact, which includes the four Declaration categories of fundamental principles and rights at work. It is foreseen to train managers on what the labour principles are and how to implement them in their operations. Country coverage includes Bangladesh, Cambodia, India, Indonesia, Mongolia, Nepal, Pakistan and Viet Nam in Asia as well as several countries in the Middle East, Africa, Latin America and Europe.

Principal hurdles to be addressed

Strengthening of rights

5. *Bosnia and Herzegovina*: The tripartite constituents have profited from a series of technical advisory services under this project. The ILO's Labour Legislation Guidelines were published in local languages and have been widely disseminated. Several seminars on collective bargaining took place at the provincial level.

6. *Bulgaria and Romania*: This three-year project seeks to promote respect for the ILO Declaration among policy makers, employers' and workers' organizations, and particularly for freedom of association and the effective recognition of the right to collective bargaining. In Bulgaria, ILO assistance has concentrated on reforming the legislation on the right to strike so as to be consistent with the principles of the ILO fundamental Conventions. In Romania, progress has been made in the drafting of a law on trade unions in accordance with the principle of freedom of association. The main decisions of the Committee on Freedom of Association were translated and widely distributed in Romania. Both countries have received ILO assistance for boosting and strengthening their labour dispute settlement systems.

7. *Central America*: In its third year, the subregional project known as RELACENTRO has focused its activities on the promotion of best practices on labour relations at enterprise level, whilst developing a strategy for the establishment of new alternative systems of conflict resolution adapted to the different national industrial relations characteristics and legal frameworks, accompanied by training activities and the publication of a review. The contribution and assistance of RELACENTRO became instrumental in the approval of a tripartite subregional agreement on the adoption of a labour agenda that includes the recognition of fundamental principles and rights at work.

¹ GB.279/TC/3.

² GB.282/TC/5.

³ GB.286/TC/2.

⁴ For the last report, see doc. GB.286/PFA/8.

8. East Timor: A technical cooperation project was designed to modernize industrial relations in this new country. Provisions on freedom of association and collective bargaining have been included in the country's Constitution. The Labour Code itself ensures the respect of fundamental principles and rights at work; it was adopted on 1 May 2002. Members of the tripartite boards created under it are soon to be appointed. Know-your-rights-and-obligations campaigns have been organized, including the dissemination in local languages of the text of the new law and an explanatory guide.

9. Eastern Africa: This project, which covers Kenya, the United Republic of Tanzania and Uganda, has been extended up to the end of 2004. It works with the tripartite partners and the institutions of industrial relations to facilitate effective organization and a meaningful collective bargaining relationship. Since its commencement in January 2001, the project has helped to strengthen and modernize labour relations. A labour law component is active in each country. The United Republic of Tanzania has ratified Convention No. 87 among others, while it is anticipated that Kenya and Uganda will ratify this Convention following the completion of the reform. The project will henceforth focus more of its capacity-building activities at the level of enterprises.

10. South-eastern Europe: The two main objectives of a new two-year programme for countries of the Stability Pact for South-Eastern Europe are to increase respect of the principles of freedom of association and the effective recognition of the right to collective bargaining and promote a genuine culture of consultation and social dialogue at all levels of decision-making. To achieve this, the project intends to strengthen the capacities of the social partners and labour administrations of the countries in question.

11. Southern Africa: This four-country project, launched in September 2002, aims to strengthen the institutional capacity of tripartite bodies in Botswana, Lesotho, Malawi and Zambia to promote tripartism, the Declaration's principles and rights as well as international labour standards. Key counterparts are the ministries of labour and the employers' and workers' organizations, including bipartite bargaining and dispute resolution bodies. In Zambia, the project also seeks to bring labour legislation into conformity with ratified ILO Conventions.

12. West Africa: The Office has embarked upon organizing seminars on the representativeness of workers' and employers' organizations, using the seminar held in Benin in 2000 as a model. A consultation meeting was held in Niger in 2002 and another one is scheduled to take place in Senegal just after the Conference. This work, which usually leads to the establishment of a new system to determine the criteria for representativeness, falls within the scope of the programmes for the application of fundamental Conventions which have been implemented in these countries since 2000.

Discrimination and interference

13. Cambodia: This project, which aims at improving working conditions in Cambodia's textile and apparel sector, has published its fourth synthesis report on the actual working conditions. While it found no evidence of forced or child labour in the various facto-

ries, there was some evidence of sex discrimination. It was also found that freedom of association had not been respected in all factories; and the problem of anti-union discrimination was mentioned. This report noted that strikes were not always organized in conformity with legally required procedures. The mid-term evaluation lauded the project for achieving a number of significant results, including genuine measurable improvements in working conditions. It recorded that project activities had resulted in increased awareness of core international labour standards and the provisions of the Labour Code. The ministerial decree on the representativeness of trade unions prepared with ILO technical assistance, provided a stronger foundation for union organizing, reinforced the protection against anti-union discrimination and unfair dismissal, and led to higher recognition and registration of trade unions. The arbitration system developed by the project has just come into effect.

Specific implementation problems

14. Caribbean: This regional project has helped to build trust, to guide beneficiaries to seek improvement in their approach by highlighting best practice enterprises as role models, by providing needed information from case studies and other surveys on conflict resolution, and on approaches to productivity gains built on cooperation rather than being undermined by confrontation. It has been extended for up to two years.

15. Colombia: A project has recently started to develop and improve labour relations at national and regional levels and to promote women's equality. A diagnosis of national settlement labour relations legislation has been carried out.

16. Indonesia: This project seeks to strengthen the institutional capacities of the tripartite constituents, as well as other institutions such as the judiciary, bipartite and tripartite institutions, in dealing with their respective roles in the protection and promotion of the fundamental principles and rights at work, in particular freedom of association and collective bargaining. It provided extensive training and capacity building for employers' and workers' organizations as well as the Government whilst awaiting the adoption of two major pieces of law in this respect. With the promulgation of the first, the Manpower Act of March 2003, it is now focusing on the implementation of the new legislation.

17. Jordan: This project aims to strengthen the enforcement of labour law and create an enabling environment for economic development and social stability through promotion of social dialogue at the national, sectoral and enterprise level.

18. Morocco: This three-year project, which has recently been restructured, seeks to improve labour administration practices, to promote social dialogue and reduce industrial disputes. Its activities cover national, selected sectors (agribusiness, construction, tourism) and enterprises.

19. Niger: Tripartite discussion retreats on the right to strike and the representativeness of occupational organizations were held in Niamey from 16 to 20 September 2002. The two objectives of this exercise were to help establish a system for trade union representativeness in accordance with the relevant international standards and to clarify the principles of the ILO supervisory bodies as regards strikes and related is-

sues. The recommendations contained in the final report, drafted with the consensus of the participants, provided for a revision of the corresponding legislation and the creation of a tripartite ad hoc committee responsible for preparing and supporting the revision process, which in the medium term should particularly lead to elections of occupational organizations. The tripartite committee was established by the ministerial decree of 6 January 2003. Proposals were made in March 2003 on a schedule and budget for holding elections of occupational organizations.

20. Nigeria: The labour law reform module of this technical cooperation project continues, using a tripartite task force approach, with a large number of laws identified as requiring modification in order to comply with fundamental principles and rights, in particular freedom of association. This project also assists the social partners, and the Government, in creating harmonious industrial relations. The mid-term evaluation noted the lessons learned to date in creating a climate propitious to social dialogue against the background of new-found democracy.

21. Organization of American States: As follow-up to the Ottawa Summit of the Americas, the project has launched a number of studies, including on methods of improving labour administration in the Americas. Brochures and a guide on promoting the Declaration have been published.

22. Ukraine: A technical cooperation project on the reform of labour legislation, labour inspection, the promotion of freedom of association and the right to collective bargaining has been under way since late 2001. Through workshops and advisory services to the tripartite constituents, significant progress has been made with regard to labour law reform. The first draft version of a new labour code has been prepared and will soon be submitted to Parliament.

23. Viet Nam: A three-year project has begun to promote workplace democracy and sound industrial relations with special emphasis on private sector enterprises. The project also aims at creating industrial relations institutions and building the capacity of social partners at various levels, with a view to supporting sound labour-management relations at the workplace.

Labour law reform

24. Many of the abovementioned projects have built-in labour law components, notably the projects concerning *Bulgaria* and *Romania*, *Cambodia*, *Indonesia*, *Ukraine*, *Nigeria* and *southern Africa*. The information given earlier is not repeated here.

Export processing zones

25. No new activities.

Agricultural workers

26. Nepal: See under forced and compulsory labour below.

International Training Centre of the ILO

27. The project on freedom of association (FOA Project) of the Turin Centre was launched in January

2001 for an initial period of two years and was later extended for one more year thanks to extra-budgetary resources made available by the Government of Italy. The aim of this project is to strengthen the technical assistance provided by headquarters under the follow-up to the Declaration.

28. Africa: The FOA Project has been operating mainly in Central Africa, where a training programme for the representatives of trade union organizations of Burundi, Rwanda, the Democratic Republic of the Congo and Congo was launched in 2001. This programme was followed up by seminars in November and December 2002 aimed at giving participants a better understanding of freedom of association and collective bargaining, enabling them to bargain collectively as a means of establishing conditions of work and employment and a framework for relations with employers. This programme should be continued in 2003. In November 2002, specific training was provided for judges from Burundi. This training addressed standards and principles on freedom of association and the work of supervisory bodies in this area. Follow-up activities have been planned for 2003. A tripartite seminar for southern African countries was held in September 2002 to meet the numerous requests sent by constituents to the Southern Africa Multidisciplinary Advisory Team (SAMAT). The principles and rights relating to freedom of association, as well as those concerning discrimination, were analysed as part of this training with particular emphasis on procedures and report writing.

29. Latin America: Emphasis was placed on programmes for taking action at the regional or sub-regional level in given sectors of activity in order to deal with sector-specific problems in more depth. The programme on the port sector in countries of the Southern Cone (CONOSUR) which was launched in September 2001 was followed up in 2002. During the closing session of this programme, which was held in December 2002 in Montevideo, participants highlighted the importance and relevance of the training received. Also for countries of the Southern Cone, a seminar aimed at workers' organizations in the aviation sector was held in the second half of 2002. A seminar was also held on the export processing zones of some Central American countries and was aimed at workers' organizations of El Salvador, Guatemala, Honduras, Mexico and Nicaragua. In collaboration with ACTRAV, the FOA Project conducted the freedom of association and collective bargaining component of two seminars organized for trade union organizations of Brazil (September and November 2002), and Mexico (in the aviation sector) (October 2002), respectively.

30. Asia: The FOA Project organized a number of training activities under the Declaration project (United States Department of Labor). These mainly involved tripartite seminars and seminars for employers' organizations on international labour standards (with particular emphasis on freedom of association and collective bargaining). In collaboration with ACTRAV, the FOA Project helped to conduct the freedom of association and collective bargaining component of two training activities focusing on Asia and the Pacific. These two activities, held in Indonesia in October 2002, were aimed, respectively, at the representatives of workers' federations and the members

of youth committees operating within trade union confederations in these regions.

31. Europe: The FOA Project continued the training programme for judges and other law specialists from Romania and contributed to the Declaration programme for trade unions of south-eastern Europe.

32. Arab countries: The FOA Project was involved in the programme for training judges from Maghreb (Rabat, June 2002) as well as trade union training for workers' organizations of Lebanon, Jordan, the Syrian Arab Republic, Iraq and the Palestinian Authority (Damascus, December 2002).

B. FORCED OR COMPULSORY LABOUR

33. The Special Action Programme to Combat Forced Labour (SAP-FL) encompasses research, awareness-raising, advisory service and technical cooperation, working in close collaboration with other units of the ILO, and with governments and the social partners in target countries. SAP-FL-led activities are now under way in Europe, South America, Africa and Asia, in selected priority countries as indicated below. Close working relationships have also been established with other international agencies, particularly in the field of trafficking (notably with the International Organization for Migration (IOM), and with the Organization for Security and Co-operation in Europe (OSCE)) and, in the field of bonded labour, efforts are being made to collaborate with the Asian Development Bank (ADB). SAP-FL continued its role as joint coordinator of the Inter-Governmental Organizations' (IGO) Contact Group on Human Trafficking and Migrant Smuggling.

Applied research and its dissemination

Abductions and slavery

34. Sudan: Discussions are under way with the Government to agree the scope and dates for an ILO mission to prepare the ground for studies and advisory services aimed to tackle problems of slavery, abductions and forced servitude.

35. Mauritania: Discussions with the Government on ILO assistance with studies of child and forced labour have continued, though the mission originally proposed by the Government in May 2002 has not yet taken place.

Misuse of cultural traditions

36. Niger: An in-depth study of forced labour, to follow-up on the national forum held in late 2001 jointly by the Association of Traditional Chiefs of Niger (ACTN) and ILO, was validated at a tripartite workshop, also involving other key stakeholders, in Niamey in December 2002. The study provided useful insights into the various manifestations of forced labour, in particular associated with surviving forms of traditional slavery, and forced labour affecting children. It also sketched out a plan of action to tackle the problems. Plans to carry out initial awareness-raising with the ACTN and its members, and through radio campaigns, are currently being finalized.

37. Western Africa: Studies are under way in Burkina Faso, Guinea and Mali, to investigate the possible prevalence and nature of different forms of forced labour, including but not confined to those linked with the abuse of traditional practices, and to sketch out future action if significant problems are found to exist.

Trafficking and its forced labour outcomes

38. Eastern and Western Europe: Research studies have been conducted in the mainly "sender" countries of Albania, Moldova, Romania and Ukraine on trafficking for either sexual exploitation (by IPEC) or for labour exploitation (under the Declaration programme). Findings were discussed in workshops held in each participating country between March and May 2003, at which priority follow-up action was also identified. Studies are also under way in certain destination countries for trafficked persons, with a focus on the economic sectors where there have been allegations of forced labour abuse. A workers' consultation on the forced labour outcomes of irregular migration in Europe was held in January 2003, reviewing the state of knowledge, and identifying priorities and methodologies for future research. A study has been undertaken on the economics of trafficking in Europe as part of technical cooperation with the Government of the Netherlands. Study findings were presented to the OSCE Economic Forum in Prague, in May 2003.⁵

Awareness raising on forced labour

39. Eastern Asia: Seminars on forced labour have taken place in Mongolia, Viet Nam and China. In each case the basic objective was to familiarize constituents with the issues, to identify potential problem areas, and identify appropriate strategies for overcoming them. In Mongolia, at a tripartite seminar held in July 2002, participants identified a number of issues requiring further analysis, including prison labour, forced overtime, local public works, and forced labour as administrative punishment. A study on forced labour concerns is soon to be completed, examining its prevalent forms and causes, and providing recommendations for legislative reform and practical action to address the problems. In Viet Nam, following a July 2002 seminar in Hanoi, the Government has announced its intention to amend certain laws, including those on public works, and has submitted requests for promotional materials and activities to secure the effective elimination of forced labour. In China, a first tripartite national seminar on forced labour was held in Beijing in January 2003. It is to be hoped that this will mark the beginning of an important process, leading to the eventual ratification and application by China of the two forced labour Conventions. A follow-up programme of activities has been sketched out, including a study tour by Chinese officials, further meetings including an inter-ministerial workshop, and broader dissemination of information relating to forced labour.

⁵ Special Action Programme to Combat Forced Labour: *Traffic in human beings: New approaches to combat the problem* (Geneva: ILO, 2003).

40. Latin America: A series of workshops organized jointly by SAP-FL and the Latin American Social Sciences Faculty (FLACSO, Ecuador) has served initially to provoke reflection by government officials, other policy-makers and analysts, human rights and development organizations, as to what are the main problems of contemporary forced labour and their root causes. Between September and November 2002, these workshops were held in Bolivia, Ecuador, Guatemala and Peru, with a deliberate focus on Central American or Andean countries that have a high proportion of indigenous peoples among their national populations. The meetings have identified a number of hitherto unexposed forced labour problems in Latin America that, it is hoped, will be tackled through follow-up research and action.

Advisory services

41. Madagascar: An in-depth study of the legal and policy environment and of different manifestations of forced labour has been delayed due to the political instability in the country.

42. Russian Federation: An information exchange programme on forced labour was provided for officials of the Russian Federation's Federal Migration Service, Ministry of Labour and other government agencies in May 2003. This gave particular attention to the forced labour concerns that may arise in the context of irregular migration and trafficking.

Programmes and projects

Recruitment, debt bondage and domestic work under forced labour conditions

43. Brazil: In March 2003, incoming President, Lula da Silva, launched a new action plan to end slave labour by 2006. The SAP-FL/Declaration project of support to the Ministry of Labour made an important contribution to the development of this plan. The project continues to support members of the Executive Group for the Abolition of Forced Labour (GERTRAF) and other key partners within and outside government, federal, state and municipal levels, in particular, the mobile inspection units charged with detecting, releasing and rehabilitating forced labourers. Important results have already been achieved, including a heightened national awareness and media debate on the issue and mobilization of action by federal prosecutors, police and the judiciary. Proposals for legislative reform have been taken into account in a draft revised penal code that contains a clearer definition of forced labour.

44. South Asia: Since 2000, the Social Finance Programme has piloted microfinance-led schemes to address the root causes of bonded labour in Nepal, Bangladesh, Pakistan and India. Through partnerships with local NGOs and government support, the project provides access to appropriate financial services fundamental for preventing debt bondage. Through various savings and credit products, as well as complementary non-financial services, the project seeks to boost incomes and reduce vulnerability of

families that are at risk of falling into bondage. The project is generating valuable lessons on both grass-root activities as well as policy interventions across the subregion. In the context of the subregional project, the Indian Government invited the ILO to address the situation of debt bondage in Tamil Nadu. As a result, in 2002 the Special Action Programme to Combat Forced Labour and the Social Finance Programme jointly initiated a project to combat bonded labour in two districts in the State. The prevention of families to fall into a debt trap and the rehabilitation of released bonded labourers are being addressed through an integrated approach of microfinance schemes, social empowerment programmes and capacity building of vigilance committees.

45. Pakistan: Work has continued to support the Government of Pakistan in implementing its National Policy and Plan of Action for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers, adopted in 2001. An initial phase of research through rapid assessments of bonded labour in a range of economic sectors has shed further light on the nature and incidence of the problem. The research forms part of an integrated programme of ILO technical cooperation, drawn up together with the Ministry of Labour. Implementation of priority elements of the programme is expected to begin in mid-2003.

46. Nepal: Implementation of the joint Declaration/IPEC project on the sustainable elimination of the Kamaiya system of bonded labour continues. Despite constraints due to the continued insurgency in the country, the project has been able to make progress on several fronts, including provision of schooling for former kamaiya children, economic empowerment, skills training and income generation for adults, and awareness raising on kamaiya-related issues. Work is commencing with trade unions, through campaigns to organize agricultural workers in the affected districts.

Internal or international trafficking resulting in forced labour situations

47. South-eastern Asia: SAP-FL, in collaboration with Anti-Slavery International, held a regional consultation for domestic workers' organizations in February 2003 in Hong Kong, China, on the protection of domestic workers against forced labour and trafficking. This focused on the lack of legislative protection, of government services, and of organization and voice for local and migrant domestic workers. The consultation has helped inform the development of a technical cooperation proposal on "Mobilizing Action for the Protection of Domestic Workers from Forced Labour and Trafficking in South-East Asia", targeting in particular Indonesia and the Philippines in an integrated programme of action.

48. South-eastern Europe: SAP-FL, building on its research, has now designed an integrated programme of technical cooperation for Albania, Moldova, Romania and Ukraine, combining prevention through community empowerment and awareness raising, labour market analysis in both origin and destination areas, greater supervision of recruiting systems across the trafficking cycle, and regular monitoring of conditions in the destination areas.

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